



**U.S. Governmental Advisory Committee**  
*Independent Federal Advisors  
on the North American  
Agreement on Environmental Cooperation*

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Michael Linder  
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Robert R. Scott  
*New Hampshire*

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Ellen Smyth  
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Colin Soto  
*Cocopah Tribe*

The Honorable Stephen L. Johnson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Administrator Johnson:

The Governmental Advisory Committee (GAC) to the U.S. Representative to the North American Commission for Environmental Cooperation (CEC) met on October 17-18, 2007 in Washington, D.C. It is my pleasure to submit to you the following report from our meeting. The report includes advice on the three topics identified during our agenda scoping calls with OIA and OCEM, specifically: 1) Opportunities to improve the CEC's visibility and communications with key U.S. constituencies; 2) emerging trends of concern for environmental and human health in North America, and 3) comments on the draft CEC Operational Plan for 2008-2010.

The meeting began with an update of U.S. priorities and the status of the draft CEC Operational Plan by Scott Fulton, Acting Deputy Assistant Administrator for International Affairs, and a report on the status of recommendations from our April meeting by Sylvia Correa, CEC Coordinator. The GAC deeply appreciates the degree to which EPA has embraced and is pursuing a number of the project recommendations jointly submitted by the NAC and GAC last May. We understand that this is the beginning of the process, but note with encouragement that in a few cases the project concepts are reflected in the draft Operational Plan.

We also heard reports from JPAC Chair Irene Henriques and CEC Executive Director Adrián Vazquez, who participated in our joint discussions on communications and the executive director's strategic vision. Our exploration of emerging trends was initiated by a panel composed of Annie Petsonk, from Environmental Defense, John Pendergrass of the Environmental Law Institute and Michael Brody from EPA's Office of Chief Financial Officer. Carol Jorgensen, Director of EPA's American Indian Environmental Office provided an update on the planning for the North American Indigenous Environmental Health Assembly. Finally, Robert Wing from the U.S. State Department's Oceans, Environment, and Science Bureau and Jim Willis and Ana Corado from EPA's Office of Prevention, Pesticides and Toxics provided additional briefings on other topics of interest.

The GAC is grateful for the presence of these people at our meeting. The information and insight they bring to our deliberations is appreciated by the committee and we believe that the value of the advice we offer is significantly enhanced by their participation.

The October meeting marked the first for members starting new terms on the committee. Our four new members participated fully in all discussions and actively contributed to the advice offered here. The returning members of the GAC welcome Michael Linder, Director of the Nebraska Department of Environmental Quality, Dr. Vincent Nathan, Director of the Department of Environmental Affairs for the City of Detroit, Cindy Padilla, Deputy Secretary for New Mexico's


Environmental Department and Carlos Rubinstein, Area Director for the Texas Commission on Environmental Quality. We also wish to note our appreciation for the service of the three members whose terms expired; Dr. Ronald Dutton, Director of the Texas Office of Border Health, Sarah Lile, Esq., Williams, Acosta, PLC, and Ricardo Martinez of the California Water resources Control Board.

We would also like to thank Jerry Clifford for his August 3, 2007 letter responding to our advice letter of May 24, 2007. His thoughtful and detailed response helps us to follow the progress of our recommendations and enhances our ability to provide useful advice in the future.

As always, we sincerely appreciate the participation from EPA's Office of International Affairs and the Office of Cooperative Environmental Management. In addition to Scott Fulton and Sylvia Correa who were mentioned earlier, Evonne Marzouk of OIA attended and contributed, as did Rafael de Leon, Mark Joyce and Oscar Carrillo from OCEM. And of course, we are grateful for the excellent administrative support we have received from staff at OCEM, particularly Nancy Bradley and Jannell N. Young-Ancrum.

In conclusion, we thank you for EPA's continued support of our role in the enhancement of environmental conditions throughout North America and we hope you find our advice helpful.

Sincerely,



Jeffrey N. Wennberg, Chair  
Governmental Advisory Committee

cc: Jerry Clifford, Acting Assistant Administrator for EPA's Office of International Affairs  
Scott Fulton, Acting Deputy Assistant Administrator for EPA's Office of International Affairs  
Rafael DeLeon, Director, Office of Cooperative Environmental Management  
Oscar Carrillo, Designated Federal Officer  
Dolores Wesson, Chair, U.S. National Advisory Committee  
Patricia Munoz, Chair, Mexican National Advisory Committee  
Irene Henriques, Chair, Joint Public Advisory Committee  
Adrián Vazquez, Executive Director, Commission in Environmental Cooperation  
Members of the U.S. Governmental Advisory Committee:  
Charles "Chip" Collette Carlos Rubinstein  
John Duffy Robert Scott  
Lisa Gover Carola G. Serrato  
Michael Linder Ellen A. Smyth  
Vincent R. Nathan, Ph.D., M.P.H. Colin Soto  
Cindy Padilla

**Governmental Advisory Committee (GAC)**  
**To the U.S. Representative to the**  
**Commission for Environmental Cooperation (CEC)**

**Advice 2007-5: CEC Visibility and Communications**

It is the view of the GAC that the CEC often produces products or operates programs that are high-quality and potentially valuable to a wide range of audiences within the United States. But many of those who might benefit from these products and programs are unaware of their existence, or are unaware of the existence of the CEC itself. The question we offer advice on is this: *Should the CEC seek to raise awareness of its existence, products and programs with the general public or target audiences within the United States, and if so, how?* This subject was originally raised under former Chair Placido Dos Santos two years ago. In our meeting on October 17 and 18, GAC members expressed divergent views on nearly all of the questions associated with this issue; therefore the recommendations here represent the areas where broad agreement was found.

The first question that must be addressed is whether the CEC would derive a benefit from implementing an awareness-raising communications or marketing effort. CEC Executive Director Adrian Vazquez shared his thoughts on this subject on the first day of our meeting. Director Vazquez stated that the CEC's primary responsibility is to produce quality products that satisfy the priorities and meet the needs of the members of the Council. He added that raising awareness among constituencies within each of the member nations was principally the responsibility of the three national representatives to the Council.

This view resonated with several members of the GAC but the group as a whole felt that while communications with the Council is the primary responsibility of the CEC, it should not stop there. Most members of the GAC do not believe it is either necessary or financially feasible to design and implement a marketing plan intended to make the CEC a 'household word' among the general public. The GAC does believe that a targeted effort aimed at key constituencies would yield benefits to both those constituencies and the CEC.

These efforts need not involve great expense, but they should be planned and coordinated. The objective should be to build partnerships with NGOs, private organizations and associations of sub-national governments with continental or border interests. There is a limited number of such groups, which once identified could be targeted for outreach and engagement. An example was offered by GAC member Carlos Rubinstein, Texas Border Area Director for the Texas Commission on Environmental Quality. He suggested that the CEC should participate in border environmental gatherings such as the annual U.S. - Mexico Border Governors Conference (scheduled in 2008 for California). These conferences deal with many issues where the CEC has purview such as transportation of people and goods, commerce, and natural resource protection. It should be noted that the Border Environment Cooperation Commission, the U.S. and Mexican Sections of the International Boundary and Water Commission and the North American Development Bank are frequent participants at these events where they interact with state and federal representatives over issues of mutual concern and identify partnering opportunities.

Another way to reach out to these communities would be to serve as a vehicle to identify, celebrate and promote replication of environmental success stories by creating a clearinghouse of outstanding state, local and regional initiatives. By enabling information sharing across Canada, the U.S. and Mexico, the CEC could become a valued resource to some of these target

constituencies. As an example, the City of Chihuahua recently inaugurated a wastewater treatment plant that mitigates impacts to the Rio Chuvistar and promotes almost 100% reuse of water for agricultural purposes.

We note that under ‘3.2.2 Capacity Building’ in the *Draft Operational Plan* that one planned accomplishment for 2008 is to “Facilitate sharing among municipal governments of best practices and innovations to promote energy conservation, local innovations to green infrastructure and human settlements, and encourage sustainable development.” The GAC applauds this effort and encourages the inclusion of state or provincial initiatives as well. If the CEC granted “North American Community Environmental Stewardship Awards,” or if the CEC operated a popular web site where innovative state and local solutions to common challenges were cataloged, the CEC would achieve both environmental and communications benefits.

The GAC believes that a targeted communications effort must be planned, and that there needs to be a person at the CEC who has the primary responsibility of coordinating and implementing the plan and managing day-to-day communications. Toward that end, the GAC recommends that the vacant position of communications director be filled and the director assigned these responsibilities.

The GAC discussed whether such a targeted plan should be implemented by a consultant or the communications director. While we do not make a recommendation in this regard, the discussion pointed out a critical factor. Since the CEC’s prime communication efforts focus on the Council, it is the GAC’s opinion that the Council must agree that a targeted communication plan is an essential component in the success of the CEC and the fulfillment of its Operational Plan. The GAC has no doubt that the Secretariat will effectively develop and implement a communications plan with the Council’s support.

Prior discussions within the GAC have focused on how the plan should be developed or the key components the plan should contain. We have discussed which organizations or entities might provide the CEC with the best partnering opportunities or which could benefit the most from a knowledge of, or relationship with, the CEC. The GAC would gladly discuss and pass along any suggestions or advice we have to help in the creation of a plan if this recommendation is accepted.

***To summarize, the GAC recommends that the United States Representative work with the other members of the council to make the creation and implementation of a targeted communications plan a priority for the CEC. The GAC further recommends that the position of communications director be filled and the director charged with managing the development and implementation of the plan. The GAC recommends that the communications strategy focus on raising the awareness of the CEC and its products and programs among NGOs, private organizations and associations of sub-national governments with continental or border interests.***

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**Advice 2007-6: Emerging Trends**

The second area of consideration during our October 17 and 18 meeting was ‘emerging trends.’ During our joint session on October 18<sup>th</sup> the NAC and GAC heard presentations from Annie Petsonk, from Environmental Defense, John Pendergrass of the Environmental Law Institute and Michael Brody from EPA's Office of Chief Financial Officer, concerning significant new threats to public health or the environment arising from new technologies, economic trends, demographic shifts and natural forces. The GAC was tasked to identify emerging trends that should be the focus of future CEC operational plans, studies and projects. The GAC identified five trends that we believe should be priorities for future CEC efforts. They are nanotechnology, food safety, by-products from the mining of uranium, climate change and demographics.

*Nanotechnology*

Nanotechnology has enormous potential to address major health, environmental, resource and economic challenges facing society. The enormous potential of nano-particles and nano-structures is derived from the fact that these materials behave very differently when reduced to the nano scale. And while our knowledge of the health and environmental effects of these materials on a macro scale is reasonably good and improving, there is almost nothing known about their impacts on the nano scale. The GAC is very concerned that just as the physical and chemical properties of these materials change in surprising ways when they are reduced to nano-particles, the environmental and health impacts will change as well.

The concern arises at several levels, from manufacturing processes, to transport, to consumer use, to the waste stream. Of particular concern is the waste stream where large quantities of these particles will surely end up in the form of discarded consumer products and otherwise. Further, if these nano-materials prove to pose a higher risk to human health, will this exacerbate existing concerns for environmental justice and impacted neighborhoods near waste management facilities?

Under NAFTA, nano-feedstock and finished products are moving freely across our borders. The rapid growth in the application of these materials demonstrates that the manufacture, movement and use of nano-materials are matters of substantial economic concern to all three nations. It is therefore critical that we increase our knowledge of the environmental and human health impacts of nano-materials as quickly as possible. Private industry is already conducting numerous studies, but these efforts are directed toward industry-specific concerns. There is no coordination between these studies, therefore critical inquiries may be delayed or missed. There is an urgent need to look at the health and environmental issues comprehensively.

Finally, with or without a complete understanding of the impacts of these materials on the environment, all three nations’ regulatory agencies will proceed to control the manufacture, use, transport and disposal of these materials. The fact that this is a brand new field creates an opportunity to harmonize these regulatory efforts which could have the dual benefits of improving environmental and health protections across the continent and protecting the economic health of industries using this new and exciting technology.

### *Food Safety*

Recent outbreaks of E-coli contaminated produce may be more than a series of coincidences. There are potentially serious implications for NAFTA if these outbreaks prove to be a trend. In the case of the contaminated spinach, the problem arose from the illegal application of waters contaminated by an upstream CAFO operation. As more agricultural products move across the border the regulations under which they are produced and the level of compliance with those regulations may not be the same as for domestic products.

One needs to look no further than the public's reaction to multiple health and safety concerns associated with Chinese manufactured goods to see that the same potential exists with our continental trading partners. Compounding this concern are fears of unintended consequences from the use of bio-engineered agricultural products and the impacts of the engineered DNA as it passes through the food cycle, or of the potential impacts on the environment when bio-engineered agricultural products are discarded.

The benefits of free trade will persist for these critical commodities only as long as the general public believes that their food is safe regardless of where in North America it was produced.

### *By-products of Uranium Mining*

The GAC believes that the resurgence of nuclear power in response to concerns for climate change and other factors makes the problem of uranium mining by-products an emerging issue. The principle concern is for mining, transportation and refining of uranium ore and the potential for major impacts on water resources. The long-term consequences of in-situ uranium mining and as yet unproven restoration efforts on water quality are of particular concern. Exploration for new mine sites is reported to be underway in Nebraska, Wyoming, Colorado, South Dakota and other states. Canada is understood to contain some of the lowest-cost to extract uranium deposits in North America. Nebraska has one of the largest in-situ uranium mines that trucks all of its ore to Canada for enrichment.

Uranium is water-soluble and relatively small concentrations are proven to create adverse chronic health effects. Once detected, drinking water can be treated, but there remains the question of what to do with the material once it is separated out. Contaminated sewage sludge cannot be used for land application and discharges of contaminated backwash water to shallow aquifers are a violation of the Clean Water Act.

These problems are associated with undisturbed deposits in bedrock. But the history of environmental damage during the last uranium boom and the new potential for contamination of both ground and surface waters argue forcefully for robust regulatory oversight of uranium mining, transportation and processing.

### *Climate Change*

All three presenters listed climate change as an emerging issue with continental implications. The GAC does not consider climate change an 'emerging' issue given that, comparatively speaking, it is reasonably well understood and clearly a major public policy priority across the continent. Less well understood are the likely long-term impacts of climate change on the environmental, economic and societal well-being of North America and North Americans.

The GAC appreciates the close inter-relationships that exist between renewable energy and climate change. The GAC continues to support projects that promote the use of cleaner fuels, renewable energy, energy conservation and other measures that reduce the use of fossil fuels.

Many in the scientific community attribute the melting of polar ice and declining rainfall in some arid regions to the greenhouse effect. As seems often to be the case, the first people impacted or displaced by environmental change are those with the least means to respond. In this case those most affected to date are North America's indigenous peoples, whether they live in the far north or the desert areas.

The GAC expresses its profound concern for such social impacts on indigenous peoples and encourages the U.S. Government to be acutely aware of these implications and consider the consequences of climate variability on Native Americans.

As these trends continue, there is a growing need for all potentially impacted communities to anticipate and respond to the challenges posed by a changing climate.

### *Demographics*

Shifting populations have regularly stressed natural resources going back thousands of years. Urbanization is occurring in parts of North America at an unprecedented rate. These large population shifts coupled with limited financial resources yield newly urbanized areas lacking the infrastructure needed to protect human health and water quality.

In some cases a changing climate can exacerbate the problem. Traditional rural resource-based economies fail when climate destabilization upsets ecosystems. Residents are then forced to alter the basis of their local economies, relocate to areas where their traditional industry is still sustainable, or relocate and change their profession to fit into their new home's economy. It appears major populations have chosen the latter and moved to cities to take whatever work they can find.

Climate trends can also exacerbate the challenge of urbanization when, for example, rainfall or snow packs decline at the same time that demand for potable water is increasing. This is the case in many areas of the southwest.

Finally, the impact of a natural disaster is amplified when it strikes a population center, and sometimes the impact of urbanization on the land can amplify the force of the disaster. Hurricane Katrina demonstrated the ability, or lack thereof, of large coastal wetland complexes to mitigate the inland impacts of such storms. More precisely, the result of extensive wetland destruction is a direct strike against a coastline's natural protection. Hurricane Dean struck the Yucatan this year with nearly as much energy but nowhere near the destruction, a fact attributed in part to the presence of large coastal wetlands.

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**Advice 2007-7: Operational Plan**

The GAC has observed in the past that the Secretariat and Operational Plan do not fully reflect the principles of the Puebla Declaration. The draft plan catalogs programs into the three pillars of Information for Decision-making, Capacity Building and Trade and the Environment but is not actually organized around these principles. Furthermore, the web site's organization and content continue to be pre-Puebla. The GAC is concerned that the language of the Puebla Declaration has been adopted, but that its principles have not.

The GAC is also concerned that the relevance of CEC activities to the lives of people is not addressed in the plan. For example, how has (or will) enhancing North American trade in green products and services improved the situation for people in their communities? Perhaps in later drafts there can be "side bars" with case studies relating past programs with real world benefits to real people.

The committee also would like to see the plan address long-standing concerns for the on-going nature of some of the programs given the continuing pressure on resources. The plan should state for each project, what constitutes 'success'. When a program is initiated is there a planned point at which it should 'sunset' and what is the sequence of decisions or actions necessary to close it down?

During the general session, there was a discussion of the value of adding a graphical summary of active and proposed programs, along the lines of a Gantt chart. The CEC may already use this tool for administrative and budgeting purposes but the GAC believes it would also help readers of the Operational Plan to see the planned life-cycles of CEC activities, looking perhaps five years into the future.

Finally, the GAC suggests another activity that is directly related to Environment and Trade and would assist in communications with target audiences. Indeed, the concept is mentioned in the NAAEC itself. Manufacturers and producers of NAFTA products could apply for permission to use a registered trademark CEC 'eco-label' and legend, similar to EPA's Energy Star. The legend could reinforce a message with a statement such as, "This product was produced and marketed under NAFTA in an environmentally responsible way." We have no doubt that a number of producers would seek such a certification, and may be willing to pay a modest fee to help defray the administrative cost of operating the program.